

**BEFORE THE APPEALS BOARD
FOR THE
KANSAS DIVISION OF WORKERS COMPENSATION**

BETTY M. VINES)	
Claimant)	
VS.)	
)	Docket No. 172,700
STATE OF KANSAS)	
Respondent)	
AND)	
)	
STATE SELF INSURANCE FUND)	
Insurance Carrier)	
AND)	
)	
KANSAS WORKERS COMPENSATION FUND)	

ORDER

Claimant appeals from an Award entered by Special Administrative Law Judge Douglas F. Martin on April 22, 1996. The Appeals Board heard oral argument on September 19, 1996.

APPEARANCES

Claimant appeared by her attorney, Terry E. Beck of Topeka, Kansas. Respondent and its insurance carrier appeared by their attorney, Jeff K. Cooper of Topeka, Kansas. The Kansas Workers Compensation Fund appeared by its attorney, Matthew S. Crowley of Topeka, Kansas.

RECORD AND STIPULATIONS

The Appeals Board has reviewed and considered the record listed in the Award. The Appeals Board has adopted the stipulations listed in the Award.

ISSUES

The Special Administrative Law Judge found that claimant had failed to sustain her burden of proving that her bilateral carpal tunnel syndrome arose out of and in the course of her employment. On appeal, claimant asks the Appeals Board to reverse the Special Administrative Law Judge's finding and asks for findings regarding unauthorized medical expense, nature and extent of claimant's disability, future medical expense, and the amount of compensation due.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

After reviewing the record and considering the arguments of the parties, the Appeals Board finds and concludes that the decision by the Special Administrative Law Judge should be affirmed.

Claimant testified that she has worked as an employee for the State of Kansas for approximately 16 years. She worked first as a Clerk III and, according to claimant's testimony, did data entry on the keyboard with approximately three-fourths of her day spent inputting vendor information. After seven years in this position she was promoted to Office Supervisor where she supervised a number of employees doing word processing. Again, claimant testified that, to a substantial extent, her work was hand-intensive work involving use of the computer, typewriter, ten-key, and stapler, as well as stuffing of envelopes for mailing. She worked as a supervisor for approximately five years. She was then transferred to "freight" and back to doing "vendor applications."

In September and October 1992 claimant began having problems with her hands and wrists. As she described the problem, she noticed that in the morning she had numbness and pain in her wrists which, at first, would subside. Over time it took longer for the symptoms to subside. She went to see Dr. S. K. Challa who in turn referred her to Dr. P. G. Amaraneni. She was then referred by the respondent to Dr. Jeffery L. Martin who, after a period of conservative treatment, referred her to Frederick A. Hutton, M.D. Dr. Hutton performed carpal tunnel surgery as well as a trigger thumb release surgery. Claimant seeks here to recover for the disability occasioned by the carpal tunnel syndrome, not the thumb.

After reviewing the record, the Appeals Board agrees with the conclusion by the Special Administrative Law Judge that claimant has failed to sustain her burden. K.S.A. 44-508(g). Claimant has produced evidence from treating doctors who indicate claimant's carpal tunnel is the result of her work activities. The opinions of these physicians rely on what the Board finds to be an inaccurate history. It seems apparent from review of the record as a whole that claimant has substantially exaggerated the extent of the work she did with her hands. The record indicates that during a substantial portion of her employment she spent more time on the telephone than she did using her hands in hand-intensive work and that she took regular ten-minute smoking breaks each hour. The record

also indicates that a portion of the work she did on the keyboard was personal and not part of her work duties.

Respondent has introduced testimony of Sergio Delgado, M.D. Although Dr. Delgado was not the treating physician the Appeals Board concludes, under the circumstances, his opinion is more credible. He did not rely on an inaccurate history. Dr. Delgado testified that he believes claimant's carpal tunnel is not the result of her work but, instead, from her activities away from work. The treating physicians did have the benefit of more extended observation but, as indicated, it appears their opinions are based in significant part on a history that overstates claimant's use of her hands in her work. Claimant has not established that her injuries arose out of and in the course of her employment.

AWARD

WHEREFORE, it is the finding, decision, and order of the Appeals Board that the Award entered by Special Administrative Law Judge Douglas F. Martin should be, and is hereby, affirmed.

IT IS SO ORDERED.

Dated this ____ day of March 1997.

BOARD MEMBER

BOARD MEMBER

BOARD MEMBER

c: Terry E. Beck, Topeka, KS
Jeff K. Cooper, Topeka, KS
Matthew S. Crowley, Topeka, KS
Douglas F. Martin, Special Administrative Law Judge
Floyd V. Palmer, Administrative Law Judge
Philip S. Harness, Director